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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,797

04/01/2004

Ji Sick Hwang

1594.1437

4960

21171 7590 03/19/2007
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EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT

PAPER NUMBER

3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/814,797

Applicant(s)

HWANG, JI SICK

Examiner

Timothy M. Ayres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the chassis in figure 1. Also figure 2 does not seem to be consistent with figure 1, 3, or 4; there appears to be a housing side wall common with the machine room and the chassis as shown in figure 2, while the remarks filed 10/10/06, the specification, and figures 3 and 4 show the machine room inside the housing (12) and the chassis as a separate member on top of the housing (12). The figures do not show the depth of chaises, i.e. where does the discharge of air go once it leaves the region shown in figure 3 and 4.
2. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each

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drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 7-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

5. The chassis is not shown in figure 1, it is unclear as to what the chassis does/goes as far depth of the refrigerator, i.e. where does the discharge of air go once it leaves the region shown in figure 3 and 4. It is unclear if the chassis extends all the way to the back of the refrigerator or only a couple of inches.

6. In regards to figure 2, it appears that it shows the chassis and the machine room are with common walls, which contradicts the news claims, specification and the remarks filled on 10/10/06, which state that the machine room is inside and at an upper

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portion of the housing (12) while the chassis is located on an upper surface of the housing (12), therefore there should not be any common walls to the chassis and machine room or housing.

7. Claims 14-21, the chassis is claimed as part of the machine room and the machine is claimed to be between an upper portion of the housing and an adjacent structure which contradict the specification and remarks filed 10/10/06.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Regarding claims 8 and 9, it is unclear as to how the machine room has an upper surface, since it appears from claim 7 that the housing surrounds the machine room.

Double Patenting

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

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F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

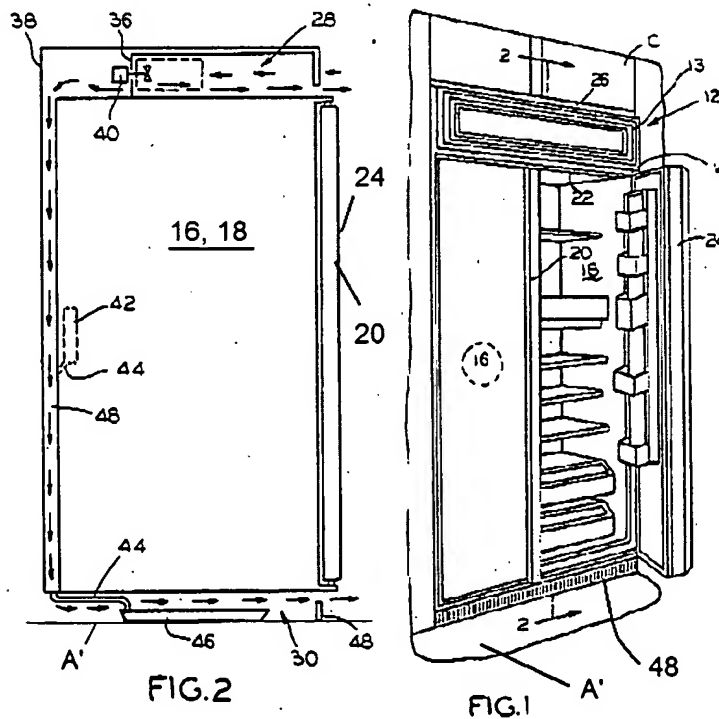
Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

12. Claims 7-21 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10/739,296 in view of US Patent 4,970,874 to Solak and US Patent 4,932,224 to Katterhenery. The copending application teaches in the claims substantially the same as this patent application except a grill in the machine room and a chassis between the refrigerator housing and the adjacent structure (50). Solak teaches a refrigerator with a machine room (28) at the top portion of the housing and has a machine room door (13). A grill (64) is behind the machine room door and protects the machine room (28). Katterhenery teaches a chassis (12) between the housing (14) and an adjacent structure/floor (F). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the refrigerator of the copending application by adding the grille of Solak to protect the equipment of the machine room and add the chassis as taught by Katterhenery between its housing and an upper adjacent structure to provide an adjustable cover there between that allows for ventilation.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

13. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4,970,874 to Solak. Solak teaches a built in refrigerator in parallel to an lower adjacent structure (A') and an upper adjacent structure (C). The refrigerator comprises a housing (38) internally defining a space (16,18) and a door (20,24) hingebaly coupled to the housing to open and close the space. The center of hinging movement (axis of rotation) of the door is positioned outside of the housing as seen in figure 2. A machine room (28) is at the top portion of the housing and has a machine room door (13). A grill (64) is behind the machine room door and protects the machine room (28). The refrigerator further comprises a spacing member (48), which defines a constant gap between the housing and the lower adjacent structure (A').



Solak '874 Figures 1 and 2

14. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 2,304,411 to Keighley. Keighley teaches a refrigerator with a housing (10) and a machine room (21) at the lower portion of the housing with a machine room door (27). A grill (28) with openings (36) is spaced from the door (27) to protect various machines (54,53) and a chassis (46,48) flows air from the outside.

Claim Rejections - 35 USC § 103

15. Claims 8-10, 12-18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2,304,411 to Keighley in view of US Patent 4,970,874 to Solak. Keighley discloses every element as claimed and discussed above except the machine installed between a lower portion of the adjacent structure and an upper portion of the housing. Solak teaches a built in refrigerator in parallel to an lower adjacent structure (A') and an upper adjacent structure (C). The refrigerator comprises a housing (38) internally defining a space (16,18) and a door (20,24) hingeably coupled to the housing to open and close the space. The center of hinging movement (axis of rotation) of the door is positioned outside of the housing as seen in figure 2. A machine room (28) is at the top portion of the housing and has a machine room door (13). A grill (64) is behind the machine room door and protects the machine room (28). The refrigerator further comprises a spacing member (48), which defines a constant gap between the housing and the lower adjacent structure (A'). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the

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refrigerator of Keighley by reversing the location of the machine room to the top of the refrigerator and making the refrigerator as a built-in as taught by Solak to allow a service technician to gain ready access in the event that problem occurs (Solak '874, Col. 1, Lines 34-44). Also, it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. See MPEP § 2144.04.

16. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2,304,411 to Keighley in view of US Patent 4,970,874 to Solak as applied to claims 8-10, 12-18, 20, and 21 above, and further in view of Japanese Patent 20011065232 to Sawano Mikio. Keighley in view of Solak discloses every element as claimed and as discussed above except the door comprising a pair of telescopic support units. Mikio teaches telescopic support units (8) to support the door (3) that has a hinge (7) outside of the housing (2). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify Keighley in view of Solak by adding telescopic support units to help support the door in the open position as taught by Mikio.

17. Claims 8, 9, 12-15, 17, 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4,970,874 to Solak. Solak discloses every element as claimed and discussed above except both a chassis and grille in the machine room. Solak teaches a grille cover (64) over an opening to allow air to flow to the exterior and an opening (60) to allow air to flow in to the machine room. The opening (60) is considered the grille portion since air flows in through it, but does not have a grille

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covering. The grille (64) is now considered the chassis. At the time of the invention, it would have been obvious for a person of ordinary skill in the art to modify the refrigerator of Solak by adding a grille covering to the opening (60) to protect the machine and control air flow. Note, It has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. See MPEP § 2144.04. Regarding claims 8 and 15, It would have been obvious for a person of ordinary skill in the art to modify Solak by having the chassis (64) be above the grille (60) on the machine room, since applicant has not disclosed that having the grille and chassis in these specific location solves any stated problem or is for any particular purpose and it appears that the machine room would perform equally well with a side by side relationship since it is functionally equivalent and works equally well.

18. Claims 10, 11, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4,970,874 to Solak as applied to claims 8, 9, 12-15, 17, 18, 20, and 21 above, and further in view of Japanese Patent 20011065232 to Sawano Mikio. Solak discloses every element as claimed and as discussed above except the door comprising a pair of telescopic support units. Mikio teaches telescopic support units (8) to support the door (3) that has a hinge (7) outside of the housing (2). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify Solak by making the door pivot upward and adding telescopic support units to make easier access and help support the door in the open position as taught by Mikio.

19. Claim 7-10, 12-18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2,811,840 to Thompson in view of US Patent 4,970,874 to Solak. Thompson teaches a refrigerator with a housing defining a internal compartment with a door (2). At a lower portion of the housing is a machine room (4) with a machine room door (5). A chassis (17) is between the machine room (4) and adjacent structure (floor, fig. 1) and the chassis (17) has a plurality of openings (12, 18, 23). Thompson does not expressly disclose a grille protecting machines in the machine room and the machine room being at the upper portion of the housing. Solak teaches a built in refrigerator in parallel to an lower adjacent structure (A') and an upper adjacent structure (C)..The refrigerator comprises a housing (38) internally defining a space (16,18) and a door (20,24) hingebaly coupled to the housing to open and close the space. The center of hinging movement (axis of rotation) of the door is positioned outside of the housing as seen in figure 2. A machine room (28) is at the top portion of the housing and has a machine room door (13). A grill (64) is behind the machine room door and protects the machine room (28). The refrigerator further comprises a spacing member (48), which defines a constant gap between the housing and the lower adjacent structure (A'). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the refrigerator of Thompson by reversing the location of the machine room to the top of the refrigerator, making the refrigerator as a built-in as taught, and adding a grille in front of the condenser (7) as taught by Solak to allow a service technician to gain ready access in the event that problem occurs and to direct/ control the air flow to the condenser (Solak '874, Col. 1, Lines 34-44). Also, it has

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been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. See MPEP § 2144.04.

20. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 2,811,840 to Thompson in view of US Patent 4,970,874 to Solak as applied to claims 7-10, 12-18, 20, and 21 above, and further in view of Japanese Patent 20011065232 to Sawano Mikio. Thompson in view of Solak discloses every element as claimed and as discussed above except the door comprising a pair of telescopic support units. Mikio teaches telescopic support units (8) to support the door (3) that has a hinge (7) outside of the housing (2). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify Thompson in view of Solak by adding telescopic support units to make easier access and help support the door in the open position as taught by Mikio.

Conclusion

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

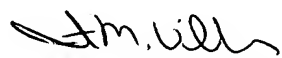
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA
3/13/07




JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637